

## SUMMARY ANALYSIS OF AMENDED BILL

Author: Ortiz Analyst: Marion Mann DeJong Bill Number: AB 1633

Related Bills: AB 1631, SB 1425, Telephone: (916) 845-6979 Amended Date: 04/14/98

SB 1478

Attorney: Doug Bramhall

Sponsor:

**SUBJECT:** Legislative Intent To Conform To Shift Burden Of Proof/Innocent Spouse/FTB Report Electronic Filing

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended \_\_\_\_\_.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended \_\_\_\_\_.

FURTHER AMENDMENTS NECESSARY.

☒ DEPARTMENT POSITION CHANGED TO Board neutral.

☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED January 5, 1998, STILL APPLIES.

☒ OTHER - See comments below.

### SUMMARY OF BILL

This bill would declare legislative intent to conform to the federal law relating to shifting the burden of proof in connection with taxes paid by California income tax taxpayers. (See Burden of Proof on page 2.)

This bill also would incorporate into state law some of the federal Taxpayer Bill of Rights 3 provisions proposed by Congress. Specifically, this bill would:

- Expand the "innocent spouse" relief provisions by allowing proportioned relief. (The Innocent Spouse discussion in the analysis of the bill as introduced January 5, 1998, still applies.)
- Declare the intent of the Legislature that, by year 2007, 80% of all personal income tax returns should be filed electronically. In addition, require the department to include in its annual report to the Legislature both the department's progress of achieving the goal and legislative changes necessary to assist in meeting the goal. (The Electronic Filing discussion in the analysis of the bill as introduced January 5, 1998, still applies.)
- Suspend the statute of limitations for refund claims for a period where the taxpayer is suffering from physical or mental impairment that is expected to result in death or to last for a continuous period of at least one year.

DEPARTMENTS THAT MAY BE AFFECTED:

\_\_\_ STATE MANDATE

\_\_\_ GOVERNOR'S APPOINTMENT

Board Position:

\_\_\_ S      \_\_\_ O  
\_\_\_ SA    \_\_\_ OUA  
X N      \_\_\_ NP  
\_\_\_ NA    \_\_\_ NAR  
\_\_\_\_\_ PENDING

Agency Secretary Position:

\_\_\_ S      \_\_\_ O  
\_\_\_ SA    \_\_\_ OUA  
\_\_\_ N      \_\_\_ NP  
\_\_\_ NA    \_\_\_ NAR  
DEFER TO \_\_\_\_\_

**GOVERNOR'S OFFICE USE**

Position Approved \_\_\_\_\_  
Position Disapproved \_\_\_\_\_  
Position Noted \_\_\_\_\_

Department/Legislative Director      Date  
**Johnnie Lou Rosas**      **4/23/98**

Agency Secretary      Date

By:      Date:

(The SOL/Financially Disabled Taxpayers discussion in the analysis of the bill as introduced January 5, 1998, still applies.)

#### SUMMARY OF AMENDMENT

The April 14, 1998, amendments deleted the provision that would have shifted the burden of proof to the department under certain circumstances with respect to Personal Income Tax Law (PITL) taxpayers who have exhausted all administrative remedies and replaced the provision with intent to conform to federal law relating to the burden of proof.

Except for the Burden of Proof Discussion, Technical Considerations and Board Position, the department's analysis of the bill as introduced January 5, 1998, still applies. The March 17, 1998, amendments resolved the department's technical considerations, the Burden of Proof discussion and Board Position are replaced with the following.

#### 1. BURDEN OF PROOF

Until the federal legislation relating to the burden of proof (Internal Revenue Service Restructuring Act) is enacted and this bill is amended to conform to that act, the impact to programs administered by the department cannot be determined.

#### BOARD POSITION

Neutral.

At its March 26, 1998, meeting, the Franchise Tax Board voted 2-0 to take a neutral position on this bill as amended March 17, 1998, with Robin J. Dezember, on behalf of Member Craig L. Brown, abstaining.